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In Re Application Of: **A. J. Colmenarez**

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
09/988,944	November 19, 2001	Thanh T. Vu		2174	9176

Title: **METHOD AND APPARATUS FOR A GESTURE BASED USER INTERFACE**

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SUPPLEMENTAL APPEAL BRIEF

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicant:	A.J. Colmenarez	**Examiner:**	Thanh T. Vu
Serial No.:	09/988,944	**Art Unit:**	2174
Filed:	November 19, 2001	**Docket:**	US010421 (18083)
For:	METHOD AND APPARATUS FOR A GESTURE BASED USER INTERFACE	**Dated:**	June 16, 2006
Conf. No.:	9176		

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APPEAL BRIEF

Sir:

I. INTRODUCTION

Pursuant to 35 U.S.C. § 134 and 37 C.F.R. § 41.37, entry of this Substitute Appeal Brief in support of the Notice of Appeal filed May 1, 2005 in the above-identified matter is respectfully requested. This paper is submitted as a brief setting forth the authorities and arguments upon which Appellants rely in support of the appeal from the Final Rejection of Claims 1-20 in the above-identified patent application on February 9, 2005.

Appellants submit this Substitute Appeal Brief in reply to the Notification of Non-Compliant Appeal Brief ("Notification") issued on May 16, 2006. In the Notification,

the Examiner argues that the brief does not contain a concise explanation of the subject matter defined in each of the independent claims which refers to the specification and drawings or fails to identify, for each independent claim and each dependent claim argued separately, every means plus function and step plus function and set forth structure described in the specification corresponding to each claimed function. Appellants respectfully submit that such concise explanation for all claims on appeal is set forth below in section VII titled "SUMMARY OF CLAIMED SUBJECT MATTER."

The Notification further indicates that the Appeal Brief is missing a section on the "Status of the Claims." Appellants respectfully submit that the same is set forth below in section V(A) titled "Status of The Claims."

The Notification further indicates that the Appeal Brief is missing a section on the "Summary of the Claimed Invention." As discussed above, Appellants respectfully submit that the same is set forth below in section VII titled "SUMMARY OF CLAIMED SUBJECT MATTER."

Lastly, the Notification further indicates that the Appeal Brief is missing both and "Evidence Appendix" and a "Related Proceedings Appendix." Appellants respectfully submit that the same are now set forth below in appendices B and C, respectively.

Appellants respectfully submit that the present Substitute Appeal Brief is in full compliance with 37 CFR § 41.37.

The Notification further indicates that it is not clear from the record whether the IDS submitted by Appellants on November 19, 2001 was made of record and considered by the Examiner. Appellants respectfully submit that the single publication cited in the IDS was submitted in the English language and the relevancy thereof was also discussed in the specification. Therefore, Appellants submit that the IDS was in compliance with 37 CFR §§ 1.97 and 1.98 and request that the reference cited therein be made of record if it has not been made so already.

II. STATEMENT OF REAL PARTY OF INTEREST

The real party of interest in the above-identified patent application is Koninklijke Philips Electronics N.V.

III. STATEMENT OF RELATED APPEALS AND INTERFERENCES

There are no pending appeals or interferences related to this application to Appellant's knowledge. See Appendix C.

IV. STATEMENT OF SUPPORTING EVIDENCE

No affidavits, documents, or other evidence is being entered into the record in support of this Appeal. See Appendix B.

V. STATEMENT OF CLAIM STATUS AND APPEALED CLAIMS

A. Status of The Claims

Claim 1 stands rejected based on 35 U.S.C. § 102(e) as being anticipated by U.S. patent 6,191,773 to Maruno et al. (Maruno).

Claim 2 stands rejected based on 35 U.S.C. § 103(a) as being unpatentable over Maruno in view of U.S. patent 6,677,965 to Ullmann.

Claim 3 stands rejected based on 35 U.S.C. § 102(e) as being anticipated by U.S. patent 6,191,773 to Maruno.

Claim 4 stands rejected based on 35 U.S.C. § 102(e) as being anticipated by U.S. patent 6,191,773 to Maruno.

Claim 5 stands rejected based on 35 U.S.C. § 102(e) as being anticipated by U.S. patent 6,191,773 to Maruno.

Claim 6 stands rejected based on 35 U.S.C. § 102(e) as being anticipated by U.S. patent 6,191,773 to Maruno.

Claim 7 stands rejected based on 35 U.S.C. § 102(e) as being anticipated by U.S. patent 6,191,773 to Maruno.

Claim 8 stands rejected based on 35 U.S.C. § 102(e) as being anticipated by U.S. patent 6,191,773 to Maruno.

Claim 9 stands rejected based on 35 U.S.C. § 102(e) as being anticipated by U.S. patent 6,191,773 to Maruno.

Claim 10 stands rejected based on 35 U.S.C. § 102(e) as being anticipated by U.S. patent 6,191,773 to Maruno.

Claim 11 stands rejected based on 35 U.S.C. § 102(e) as being anticipated by U.S. patent 6,191,773 to Maruno.

Claim 12 stands rejected based on 35 U.S.C. § 102(e) as being anticipated by U.S. patent 6,191,773 to Maruno.

Claim 13 stands rejected based on 35 U.S.C. § 102(e) as being anticipated by U.S. patent 6,191,773 to Maruno.

Claim 14 stands rejected based on 35 U.S.C. § 102(e) as being anticipated by U.S. patent 6,191,773 to Maruno.

Claim 15 stands rejected based on 35 U.S.C. § 102(e) as being anticipated by U.S. patent 6,191,773 to Maruno.

Claim 16 stands rejected based on 35 U.S.C. § 102(e) as being anticipated by U.S. patent 6,191,773 to Maruno.

Claim 17 stands rejected based on 35 U.S.C. § 102(e) as being anticipated by U.S. patent 6,191,773 to Maruno.

Claim 18 stands rejected based on 35 U.S.C. § 102(e) as being anticipated by U.S. patent 6,191,773 to Maruno.

Claim 19 stands rejected based on 35 U.S.C. § 102(e) as being anticipated by U.S. patent 6,191,773 to Maruno.

Claim 20 stands rejected based on 35 U.S.C. § 102(e) as being anticipated by U.S. patent 6,191,773 to Maruno.

B. Appealed Claims

Claims 1-20 are appealed, a clean copy of which are attached hereto in Appendix A.

VI. STATEMENT OF AMENDMENT STATUS

The claims were not amended in the Response to the Final Rejection filed March 23, 2005.

VII. SUMMARY OF CLAIMED SUBJECT MATTER

The present application, U.S. patent application Serial No. 09/988,944 was filed on November 19, 2001, originally included Claims 1-17.

In an Official Action dated July 15, 2004, the Examiner objected to the Specification and Drawings and rejected Claims 1-17 under 35 U.S.C. §102(e) as being anticipated by U.S. patent 6,191,773 to Maruno et al. (Maruno).

In a Response under 37 C.F.R. § 1.111, filed September 21, 2004, Applicant traversed the Examiner's rejection and argued that Muruno emphasizes a menu item in response to an identified hand shape and does not disclose or suggest where selection options are highlighted, and a selection gesture is received from a user for selecting a highlighted selection option. However, Claims 2, 10 and 14 were amended to improve clarity and claims 18-20 were added based on the Specification, e.g., at page 11, lines 1-10.

In the Final Official Action, issued February 9, 2005, the Examiner reiterated the rejections from the previous Official Action with regard to claims 1 and 3-17, included new claims 18-20 in the same rejection, and rejected claim 2 under 35 U.S.C. §103(a) as being unpatentable over Maruno in view of

U.S. patent 6,677,965 to Ullmann. Applicant traversed the Examiner's rejections without amendment to the claims in a response under 37 C.F.R. § 1.116 filed on March 23, 2005.

Subsequent to an Advisory Action issued on April 21, 2005, an Appeal Brief was filed on May 1, 2005.

Consequently, Claims 1-20 are the claims on appeal. A copy of the rejected claims is attached hereto in Appendix A.

The invention with respect to claim 1 comprises a video display device comprising: a display (e.g., Figure 1 at reference numeral 110 and the specification at page 4, lines 21-23) configured to display a plurality of selection options (e.g., the specification at page 6, lines 21-25); and a processor (e.g., Figure 1 at reference numeral 120 and the specification at page 4, lines 21-23) operatively coupled to the display (e.g., Figure 1 at reference numeral 120 and the specification at page 4, lines 21-23) and configured to sequentially highlight each of the plurality of selection options for a period of time (e.g., Figures 1 and 2 and the specification at page 7, lines 10-16) and configured to receive a selection gesture from the user for selecting a highlighted selection option (e.g., Figure 2 and the specification from page 7, line 17 to page 8, line 16).

The invention with respect to claim 2 comprises the video display device of Claim 1, wherein the processor is configured to highlight each of the plurality of selection

options by causing the display to display only one of each of the plurality of selection options for the period of time (e.g., the specification at page 8, lines 7-13).

The invention with respect to claim 3 comprises the video display device of Claim 1, wherein the processor is configured to highlight each of the plurality of selection options by causing the display to alter a display characteristic for one of each of the plurality of selection options for the period of time (e.g., the specification from page 7, line 19 to page 8, line 2).

The invention with respect to claim 4 comprises the video display device of Claim 1, comprising an audio output device (e.g., Figure 1 at reference numeral 128 and the specification at page 4, lines 21-23), wherein the processor is configured to highlight each of the plurality of selection options by causing the audio output device to sequentially output an audio indication associated with a corresponding one of each of the plurality of selection options (e.g., the specification from page 8, line 17 to page 9, line 9).

The invention with respect to claim 5 comprises the video display device of Claim 1, comprising a camera (e.g., Figure 1 at reference numeral 124 and the specification at page 9, lines 10-13) operatively coupled to the processor for acquiring an image of the user containing the selection gesture (e.g., the specification at page 9, lines 10-23).

The invention with respect to claim 6 comprises the video display device of Claim 5, wherein the image information is contained in a plurality of images and wherein the processor is configured to analyze the plurality of images to determine the selection gesture (e.g., the specification from page 10, line 10 to page 11, line 4).

The invention with respect to claim 7 comprises the video display device of Claim 5, wherein the image information is contained in a plurality of images and wherein the processor is configured to determine the selection gesture by analyzing the plurality of images and determining a trajectory of a hand of the user (e.g., the specification at page 11, lines 4-11).

The invention with respect to claim 8 comprises the video display device of Claim 1, wherein the processor is configured to determine the selection gesture by analyzing an image of the user and determining a posture of a hand of the user (e.g., the specification at page 11, lines 15-17).

The invention with respect to claim 9 comprises the video display device of Claim 1, wherein the video display device is a television (e.g., the specification from page 11, line 24 to page 12, line 2 and at page 12, lines 10 and 11).

The invention with respect to claim 10 comprises a method of providing a user interface containing a plurality of selection options, where the method comprises the acts of: displaying a plurality of selection options (e.g., the

specification at page 6, lines 21-25); highlighting each one of the plurality of selection options sequentially (e.g., the specification at page 7, lines 10-16); and analyzing an image of the user to determine whether the image contains a selection gesture for a highlighted selection option (e.g., the specification from page 9, line 10 to page 10, line 25).

The invention with respect to claim 11 comprises the method of Claim 10, wherein analyzing the image comprises: receiving a plurality of images (e.g., the specification at page 9, lines 10-13); and analyzing the plurality of images to determine whether the plurality of images contains a selection gesture (e.g., the specification at page 9, lines 13-15).

The invention with respect to claim 12 comprises the method of Claim 10, wherein analyzing the image comprises: receiving a plurality of images (e.g., the specification at page 9, lines 10-13); analyzing the plurality of images to determine a trajectory of a hand of the user (e.g., the specification at page 10, lines 6-11); and determining whether the plurality of images contains a selection gesture by the determined trajectory (e.g., the specification at page 10, lines 6-11).

The invention with respect to claim 13 comprises the method of Claim 10, wherein analyzing the image comprises: analyzing an image of the user to determine a posture of a hand of the user (e.g., the specification at page 10, lines 12-17);

and determining whether the image contains a selection gesture by the determined posture (e.g., the specification at page 10, lines 12-17).

The invention with respect to claim 14 comprises a program portion stored on a processor readable medium for providing a user interface containing a plurality of selection options (e.g., the specification at page 13, lines 5 and 6). The program portion comprising: a program segment for controlling a display of the plurality of selection options (e.g., the specification at page 6, lines 21-25); a program segment for highlighting each one of the plurality of selection options for a period of time (e.g., the specification at page 7, lines 10-16); a program segment for analyzing an image of a user to determine whether the image contains a selection gesture (e.g., the specification from page 9, line 10 to page 10, line 25); and a program segment for performing a selection option if a selection gesture is received while the selection option is highlighted (e.g., the specification at page 10, lines 12-25).

The invention with respect to claim 15 comprises the program portion of Claim 14, wherein the program segment for analyzing the image comprises: a program segment for controlling receipt of a plurality of images (e.g., the specification at page 9, lines 10-13); and a program segment for analyzing the plurality of images to determine whether the

selection gesture is received (e.g., the specification at page 9, lines 13-15).

The invention with respect to claim 16 comprises the program portion of Claim 14, wherein the program segment for analyzing the image comprises: a program segment for controlling receipt of a plurality of images (e.g., the specification at page 9, lines 10-13); a program segment for analyzing the plurality of images to determine a trajectory of a hand of the user (e.g., the specification at page 10, lines 6-11); and a program segment for determining whether the selection gesture is received by the determined trajectory (e.g., the specification at page 10, lines 6-11).

The invention with respect to claim 17 comprises the program portion of Claim 14, wherein the program segment for analyzing the image comprises: a program segment for analyzing an image of the user to determine a posture of a hand of the user (e.g., the specification at page 10, lines 12-17); and a program segment for determining whether the selection gesture is received by the determined posture (e.g., the specification at page 10, lines 12-17).

The invention with respect to claim 18 comprises the video display device of Claim 1, wherein the processor highlights a next one of the selection options in response to determining that the selection gesture has not been received when a current one of the selection options is highlighted

(e.g., the specification at page 11, lines 1-10).

The invention with respect to claim 19 comprises the method of Claim 10, wherein the highlighting highlights a next one of the selection options in response to the analyzing determining that the selection gesture has not been received when a current one of the selection options is highlighted (e.g., the specification at page 11, lines 1-10).

The invention with respect to claim 20 comprises the program portion of Claim 14, wherein the program segment for highlighting highlights a next one of the selection options in response to the program segment for analyzing determining that the selection gesture has not been received when a current one of the selection options is highlighted (e.g., the specification at page 11, lines 1-10).

VIII. STATEMENT/LIST OF EACH GROUND FOR REVIEW

1. The Rejection of claims 1 and 3-20, on appeal, under 35 U.S.C. § 102(e), as being anticipated by Maruno et al. is improper.

A. CLAIMS 1, 10 and 14

The invention set forth in claim 1 differs from Maruno at least in that claim 1 sets forth that a processor is "configured to receive a selection gesture from the user for selecting a highlighted selection option." Thus, a selection option that is already highlighted can be selected based on the

receiving of a selection gesture from the user.

In contrast, Maruno describes an interface apparatus where a menu item is highlighted in response to an identified hand shape. In particular, Maruno provides a display with menus 201, 202 and an icon 200 reflecting the shape of the viewer's hand. A CCD camera 3 picks up the hand shape. Fig. 1, col. 4, lines 32-40. A shape identifying means 22 judges if the shape is, for example, one finger, two fingers, or three fingers. Furthermore, an icon generating unit 24 may generate a numeral, e.g., "1" or "2" based on the hand shape, and the corresponding menu item is emphasized. Figs 7(a) and 7(b), col. 5, lines 13-42. Thus, a menu item is emphasized based on a recognized hand shape of a user.

Maruno provides no disclosure or suggestion of Applicant's invention, where selection options are highlighted, and a selection gesture is received from a user for selecting a highlighted selection option. Thus, with Applicant's invention, the selection option is already highlighted when it is selected. Maruno does the opposite - highlighting a menu item in response to an identified hand shape. Applicant's approach is advantageous because it provides a robust system that overcomes the problems of the prior art, as discussed in the specification, e.g., pages 1-3. In particular, there is no confusion as to which selection option has been selected because the selection options are sequentially highlighted.

On page 6 of the Office Action and in the Advisory Action, the Examiner further asserts that Maruno teaches that a selection gesture is received from the user for selecting a highlighted selection option when the selection gesture involves maintaining the same hand shape for a period of time. However, Maruno states that the display of an item on a menu is shown by emphasis as soon as the user holds up a certain number of fingers, for example. The emphasized menu item is then selected after the same hand shape is maintained for a specific time (col. 5, lines 39-46).

In contrast, Applicant's claim 1 states that a processor receives a selection gesture for selecting a highlighted selection option. Thus, the selecting of an option is caused by the receiving of a selection gesture. This receiving of a selection gesture must be distinguished from the maintaining of a hand shape by Maruno.

Claims 10 and 14 contain similar recitations and are allowable for at least similar reasons as set forth for claim 1.

Withdrawal of the rejection to the independent claims 1, 10 and 14 is therefore respectfully requested.

B. CLAIMS 3-9, 11-13 and 15-20

Claims 3-9 and 18 being dependent upon claim 1 are thus at least allowable therewith.

Claims 11-13 and 19 being dependent upon claim 10 are thus at least allowable therewith.

Claims 15-17 and 20 being dependent upon claim 14 are thus at least allowable therewith.

Moreover, the dependent claims recite further patentable features.

For example, claim 18, sets forth that the processor highlights a next one of the selection options in response to determining that the selection gesture has not been received when a current one of the selection options is highlighted. In contrast, Maruno only teaches emphasizing a menu item when a user confronts an appliance and points out a specified number of fingers (col. 5, lines 32-42). There is simply no disclosure or suggestion of highlighting a next selection option in response to determining that a selection gesture has not been received.

Therefore, claim 18 is believed to be clearly patentable over Maruno independent of its base claim.

The same reasoning applies to claims 19 and 20.[1]

Therefore, claims 19 and 20 are believed to be clearly patentable over Maruno et al. independent of its base claim.

1 Regarding the Examiner's statements on page 5 of the Final Office Action that claims 19 and 20 are rejected under the same rationale as claim 17, Applicant assumes that the Examiner meant to refer to claim 18.

2. The Rejection of claim 2, on appeal, under 35 U.S.C. § 103, as being unpatentable over Maruno et al. in view of Ullmann is improper.

Claim 2 being dependent upon claim 1 is thus at least allowable therewith.

Moreover, dependent claim 2 recites further patentable features.

Claim 2 sets forth that only one selection option is displayed at a time. In contrast, Maruno provides multiple menu items 201, 202 at a time (Fig. 1). Applicant's approach is advantageous because it avoids confusion as to which selection option the user is responding to with a gesture.

Moreover, Ullmann cannot cure the deficiencies of Maruno. Ullmann is concerned with a graphical user interface that uses a "rubber band" image to control the speed at which selections scroll or a control operation is repeated (Abstract). In particular, the user places a cursor or pointer over a GUI control, and selects and drags away from the control, causing a virtual rubber band to be displayed between the pointer and the GUI control. The Examiner asserts that it would be obvious to modify Maruno by incorporating a GUI device such as a list control 34 (Fig. 3b) as shown by Ullmann since this would save display space. However, there is no mention of such a need to save display space by Ullmann or Maruno. Moreover, the interface techniques of Ullmann and Maruno are

inherently incompatible and could not be combined into an operative system since the list box of Ullmann is selected by a cursor rather than by the shape or movement of an operator's hand as taught by Maruno. "If when combined, the references 'would produce a seemingly inoperative device,' then they teach away from their combination." Tec Air Inc. v. Denso Manufacturing Michigan Inc., 192 F.3d 1353, 52 USPQ2d 1294 (CAFC 1999). One of ordinary skill in the art would intuitively see this, and would therefore be led away from the proposed modification.

Furthermore, there is no motivation to combine Maruno and Ullmann since they are concerned with different technical problems. In particular, Ullmann is not concerned with an interface apparatus such as that provided by Maruno, which is responsive to the shape or movement of an operator's hand (Abstract). Generally, one cannot base obviousness upon what a person skilled in the art could or might try but rather must consider what the prior art would have led a person skilled in the art to do. In re Antonie, 559 F.2d 618 195 USPQ 6 (CCPA, 1977). The Examiner must make a showing of a suggestion or motivation in the art to combine the references. In re Rouffet, 149 F.3d 1350, 47 USPQ2d 1453 (Fed. Cir. 1998). The Examiner has failed to make such a showing.

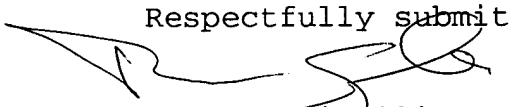
Therefore, claim 2 is believed to be clearly patentable over the combination of Maruno et al. and Ullmann independent of its base claim.

IX. CONCLUSION

Based on the above arguments and remarks, Appellants respectfully submit that the claims of the instant invention on appeal are not anticipated or obvious in light of Maruno et al. and Ullmann, either individually or in combination. Consequently, the rejections of the claims based on such references are in error. In view of the remarks submitted hereinabove, the references applied against Claims 1-20 on appeal do not render those claims unpatentable under 35 U.S.C. §§ 102 and 103. Thus, Appellants submit that the §§ 102 and 103 rejections are in error and must be reversed.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment in connection herewith to Deposit Account No. 19-1013/SSMP.

Respectfully submitted,



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APPENDIX

CLAIMS ON APPEAL: CLAIMS 1-20

Application Serial No. 09/988,944

1. (Rejected) A video display device comprising:

a display configured to display a plurality of selection options;

a processor operatively coupled to the display and configured to sequentially highlight each of the plurality of selection options for a period of time and configured to receive a selection gesture from the user for selecting a highlighted selection option.

2. (Rejected) The video display device of Claim 1, wherein the processor is configured to highlight each of the plurality of selection options by causing the display to display only one of each of the plurality of selection options for the period of time.

3. (Rejected) The video display device of Claim 1, wherein the processor is configured to highlight each of the plurality of selection options by causing the display to alter a display characteristic for one of each of the plurality of selection options for the period of time.

4. (Rejected) The video display device of Claim 1, comprising an audio output device, wherein the processor is configured to highlight each of the plurality of selection options by causing the audio output device to sequentially output an audio indication associated with a corresponding one of each of the plurality of selection options.

5. (Rejected) The video display device of Claim 1, comprising a camera operatively coupled to the processor for acquiring an image of the user containing the selection gesture.

6. (Rejected) The video display device of Claim 5, wherein the image information is contained in a plurality of images and wherein the processor is configured to analyze the plurality of images to determine the selection gesture.

7. (Rejected) The video display device of Claim 5, wherein the image information is contained in a plurality of images and wherein the processor is configured to determine the selection gesture by analyzing the plurality of images and determining a trajectory of a hand of the user.

8. (Rejected) The video display device of Claim 1, wherein the processor is configured to determine the selection gesture by analyzing an image of the user and determining a posture of a hand of the user.

9. (Rejected) The video display device of Claim 1, wherein the video display device is a television.

10. (Rejected) A method of providing a user interface containing a plurality of selection options, the method comprising the acts of:

displaying a plurality of selection options;

highlighting each one of the plurality of selection options sequentially; and

analyzing an image of the user to determine whether the image contains a selection gesture for a highlighted selection option.

11. (Rejected) The method of Claim 10, wherein analyzing the image comprises:

receiving a plurality of images; and

analyzing the plurality of images to determine whether the plurality of images contains a selection gesture.

12. (Rejected) The method of Claim 10, wherein analyzing the image comprises:

receiving a plurality of images;

analyzing the plurality of images to determine a trajectory of a hand of the user; and

determining whether the plurality of images contains a selection gesture by the determined trajectory.

13. (Rejected) The method of Claim 10, wherein analyzing the image comprises:

analyzing an image of the user to determine a posture of a hand of the user; and

determining whether the image contains a selection gesture by the determined posture.

14. (Rejected) A program portion stored on a processor readable medium for providing a user interface containing a plurality of selection options, the program portion comprising:

a program segment for controlling a display of the plurality of selection options;

a program segment for highlighting each one of the plurality of selection options for a period of time;

a program segment for analyzing an image of a user to determine whether the image contains a selection gesture; and

a program segment for performing a selection option if a selection gesture is received while the selection option is highlighted.

15. (Rejected) The program portion of Claim 14, wherein the program segment for analyzing the image comprises:

a program segment for controlling receipt of a plurality of images; and

a program segment for analyzing the plurality of images to determine whether the selection gesture is received.

16. (Rejected) The program portion of Claim 14, wherein the program segment for analyzing the image comprises:

a program segment for controlling receipt of a plurality of images;

a program segment for analyzing the plurality of images to determine a trajectory of a hand of the user; and

a program segment for determining whether the selection gesture is received by the determined trajectory.

17. (Rejected) The program portion of Claim 14, wherein the program segment for analyzing the image comprises:

a program segment for analyzing an image of the user to determine a posture of a hand of the user; and

a program segment for determining whether the selection gesture is received by the determined posture.

18. (Rejected) The video display device of Claim 1, wherein the processor highlights a next one of the selection options in response to determining that the selection gesture has not been received when a current one of the selection options is highlighted.

19. (Rejected) The method of Claim 10, wherein the highlighting highlights a next one of the selection options in

response to the analyzing determining that the selection gesture has not been received when a current one of the selection options is highlighted.

20. (Rejected) The program portion of Claim 14, wherein the program segment for highlighting highlights a next one of the selection options in response to the program segment for analyzing determining that the selection gesture has not been received when a current one of the selection options is highlighted.

APPENDIX B

EVIDENCE SUBMITTED
Application Serial No. 09/988,944

There is no evidence submitted by the Appellant in this appeal.

APPENDIX C

RELATED PROCEEDINGS
Application Serial No. 09/988,944

There are no pending appeals or interferences related to this application to Appellants' knowledge.